

Alcohol and Tobacco Tax and Trade Bureau, Treasury

§ 46.75

claimed under any other provision of law or regulations.

[T.D. 6871, 31 FR 59, Jan. 4, 1966. Redesignated at 40 FR 16835, Apr. 15, 1975 and amended by T.D. ATF-232, 51 FR 28090, Aug. 5, 1986; T.D. ATF-243, 51 FR 43194, Dec. 1, 1986; T.D. ATF-472, 67 FR 8881, Feb. 27, 2002]

CLAIMS PROCEDURE

§ 46.74 Execution of claims.

Disaster loss claims for tobacco products or cigarette papers or tubes must be executed on TTB Form 2635 (5620.8), Claim—Alcohol, Tobacco and Firearms Taxes, in accordance with the instructions on the form. If a claim involves taxes on both domestic and imported products, the quantities of each must be shown separately in the claim. Prepare a separate claim in respect of customs duties.

[T.D. ATF-420, 64 FR 71945, Dec. 22, 1999]

§ 46.75 Required information for claim.

The claim should contain the following information:

(a) That the tax on such tobacco products, or cigarette papers or tubes has been paid or determined and customs duty has been paid;

(b) That such tobacco products, or cigarette papers or tubes were lost, rendered unmarketable, or condemned by a duly authorized official, by reason of a disaster;

(c) The type and date of occurrence of the disaster and the location of the tobacco products, or cigarette papers or tubes at that time;

(d) That the claimant was not indemnified by any valid claim of insurance or otherwise in respect of the tax, or tax and duty, on the tobacco products, or cigarette papers or tubes covered by the claim;

(e) That no amount of internal revenue tax or customs duty claimed has been or will be otherwise claimed under any other provision of law or regulations,

(f) That the claimant is entitled to payment under this subpart, and

(g) The claim must set forth the quantity and kind of tobacco products and cigarette papers and tubes in sufficient detail to calculate the amount of tax and duty paid on these products, substantially as shown in the examples below:

[Example using 1993–1999 Rates]

Quantity	Article	Rate of tax	Amount
20,000	Small cigars	\$1.125 per thousand	\$22.50
1,000	Large cigars—sale price \$100/thousand.	12.75% of sale price	12.75
500	Large cigars—sale price \$236/thousand.	\$30 per thousand	15.00
10,000	Small cigarettes	\$12 per thousand	120.00
5,000	Large cigarettes	\$25.20 per thousand	126.00
2,000 sets	Cigarette papers—50 per set	\$0.0075 per set	15.00
1,000 sets	Cigarette papers—100 per set	\$0.015 per set	15.00
1,000	Cigarette tubes	\$0.015 per 50 tubes	0.30
100 lbs	Chewing tobacco	\$0.12 per pound	12.00
200 lbs	Snuff	\$0.36 per pound	72.00
100 lbs	Pipe tobacco	\$0.675 per pound	67.50
300 lbs	Roll-your-own tobacco	\$0 per pound	
Total claimed			478.05

[Example using 2000–2001 Rates]

Quantity	Article	Rate of tax	Amount
20,000	Small cigars	\$1.594 per thousand	\$31.88
1,000	Large cigars—sale price \$100/thousand.	18.063% of sale price	18.06
500	Large cigars—sale price \$236/thousand.	\$42.50 per thousand	21.25
10,000	Small cigarettes	\$17.00 per thousand	170.00
5,000	Large cigarettes	\$35.70 per thousand	178.50
199,975	Cigarette papers	\$0.0106 per 50 papers	42.40
1,000	Cigarette tubes	\$0.0213 per 50 tubes	0.43
100 lbs	Chewing tobacco	\$0.17 per pound	17.00
200 lbs	Snuff	\$0.51 per pound	102.00
100 lbs	Pipe tobacco	\$0.9567 per pound	95.67

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[Example using 2000–2001 Rates]

Quantity	Article	Rate of tax	Amount
300 lbs	Roll-your-own tobacco	\$0.9567 per pound	287.01
Total claimed			964.20

[Example using rates for 2002 and After]

Quantity	Article	Rate of tax	Amount
20,000	Small cigars	\$1.828 per thousand	36.56
1,000	Large cigars—sale price \$100/thousand.	20.719% of sale price	20.72
500	Large cigars—sale price \$236/thousand.	\$48.75 per thousand	24.38
10,000	Small cigarettes	\$19.50 per thousand	195.00
5,000	Large cigarettes	\$40.95 per thousand	204.75
199,975	Cigarette papers	\$0.0122 per 50 papers	48.80
1,000	Cigarette tubes	\$0.0244 per 50 tubes	0.49
100 lbs	Chewing tobacco	\$0.195 per pound	19.50
200 lbs	Snuff	\$0.585 per pound	117.00
100 lbs	Pipe tobacco	\$1.0969 per pound	109.69
300 lbs	Roll-your-own tobacco	\$1.0969 per pound	329.07
Total claimed			1,105.96

[T.D. ATF–420, 64 FR 71945, Dec. 22, 1999]

§ 46.76 Supporting evidence.

The claimant must support the claim with any available evidence (such as inventories, statements, invoices, bills, records, stamps, and labels), relating to the tobacco products or cigarette papers or tubes on hand at the time of the disaster and claimed to have been lost, rendered unmarketable, or condemned as a result thereof. If the claim is for refund of duty, the claimant must furnish, if practicable, the customs entry number, date of entry, and the name of the port of entry.

[T.D. ATF–420, 64 FR 71946, Dec. 22, 1999]

§ 46.77 Time and place of filing.

Disaster loss claims must be filed within 6 months after the date on which the President makes the determination that the disaster has occurred. All forms, including claims for duty on imported products, must be filed with the appropriate TTB officer.

[T.D. ATF–420, 64 FR 71946, Dec. 22, 1999]

§ 46.78 Action by appropriate TTB officer.

The appropriate TTB officer must act upon each claim for payment (without interest) of an amount equal to the tax paid or determined filed under this subpart and must notify the claimant. Claims and supporting data involving

customs duties will be forwarded to the Commissioner of Customs with a summary statement of such officer's findings.

[T.D. ATF–472, 67 FR 8881, Feb. 27, 2002]

DESTRUCTION OF TOBACCO PRODUCTS, AND CIGARETTE PAPERS AND TUBES

§ 46.79 Supervision.

Before payment is made under this subpart in respect of the tax, or tax and duty, on tobacco products, or cigarette papers or tubes rendered unmarketable or condemned by a duly authorized official, such tobacco products, or cigarette papers or tubes must be destroyed by suitable means under the supervision of an appropriate TTB officer who will be assigned for that purpose by another appropriate TTB officer. However, if the destruction of such tobacco products, or cigarette papers or tubes has already occurred, and if the appropriate TTB officer who acts on the claim is satisfied with the supervision of such destruction, TTB supervision will not be required.

[T.D. ATF–472, 67 FR 8881, Feb. 27, 2002]

PENALTIES

§ 46.80 Penalties.

Penalties are provided in 26 U.S.C. 7206 and 7207 for the execution under